

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of)	
)	
Elimination of Rate-of-Return Regulation of)	RM No. 10822
Incumbent Local Exchange Carriers)	
)	
Federal-State Joint Board)	CC Docket No. 96-45
on Universal Service)	

**COMMENTS OF OREGON-IDAHO UTILITIES AND
HUMBOLDT TELEPHONE COMPANY ON PETITION
OF WESTERN WIRELESS CORPORATION**

1. Oregon-Idaho Utilities, Inc. (OIU) and Humboldt Telephone Company (HTC) respectfully present their Comments on the October 30, 2003, Petition of Western Wireless Corporation. Western Wireless suggests that the Commission should completely abandon the current authorized policy of providing support for the actual costs of providing universal service in areas served by small, rural carriers. The Petition proposes, instead, that the Commission should embrace a “to-be-developed” methodology for determining rural study area high-cost support that, as posited by Western Wireless, would lead to the degradation of rural universal telecommunications service in clear violation of the provisions of the Telecommunications Act of 1996 (1996 Act). OIU and HTC oppose the Petition.

2. OIU and HTC are small, rural local exchange carriers operating two separate

study areas serving the states of Oregon, Idaho, and Nevada. OIU and HTC fit the definition of “high-cost” rural companies. They participate in the NECA access pools and are recipients of federal universal service support, receiving funds from these sources that are based upon the actual costs incurred by OIU and HTC in providing local exchange telephone service to their rural customers.

3. OIU and HTC participate in the national organizations which represent small, rural local exchange carriers before the Commission, and they fully support and concur in the Comments that will be filed in this proceeding by those organizations. Those comments will fully address and illuminate the lack of merit in the Petition. These brief comments by OIU and HTC are intended only to present additional views concerning certain of the broad policy issues that underlie the reckless proposal outlined in the Petition.

4. The Petition presents a selective view of the supposed evils of what it labels as the “rate of return” system of regulation, but this anecdotal list of horror stories includes examples of many proceedings involving large ILECs which are largely price-cap regulated. With its sole focus on the supposed shortcomings of the current system, the Petition completely fails to address the important policy issues involved in providing universal service support based on hypothetical “modeled” incremental costs as opposed to actual operating costs.

5. These issues have been addressed in detail in the work of the Commission's Rural Task Force (RTF), but the Petition conveniently chooses to ignore the findings of

the RTF report. The proceedings of the RTF were grounded in extensive study and analysis of the unique circumstances of small rural local exchange carriers. The findings of the RTF contradict the blithe assumption in the Petition that a hypothetical cost model can be developed that would be superior to the use of actual cost data as the basis for distribution of universal service support.

6. Nothing in the checkered history of development of hypothetical proxy cost models for the RBOCs and the other large, diversified LECs would support the suggestion in the Petition that the Commission can presume that such a system could be developed that would comport with universal service obligations under Section 254 of the 1996 Act. Development of the high-cost support model for large carriers required years of bitterly contested proceedings involving dozens of highly paid experts, each promising that the next iteration of their own sponsored model would provide the “right” answer. Neither the process nor the outcome of those proceedings supports the conclusion that a similar undertaking for small, rural carriers would produce service cost estimates that are superior to the accurate costs reflected in each carrier's cost studies.

7. The same must be said of the application of TELRIC modeling procedures to the development of large company UNE “costs” and pricing. One of the primary reasons to utilize the modeling process to develop the hypothetical costs of a specific portion of a large, service-diversified telecommunications system is that there are no separate books or accounting records that isolate the actual service costs of that portion of the system. This is a problem that does not exist in the case of the small, rural LEC,

which has a service area and cost study that corresponds with its universal service support requirements. The actual costs of operation are reflected in the company's existing books of account.

8. Further, the purpose of TELRIC modeling is to define the “incremental” costs of a particular function or service. This presupposes that the particular service or function is in some manner “incremental” to a larger set of corporate operations. This critical factor is, however, lacking in the case of small, rural carriers. They are primarily (and often solely) in the business of providing local exchange telephone service to a high-cost service territory. It is not possible to estimate the universal service support requirements of a rural carrier on an “incremental” basis when there is no larger operation to which the local exchange services are incremental. The Petition makes the point that some rural carriers receive 70% or more of their operating revenues from universal service and other pooled sources. That is precisely why attempting to calculate support revenues on an “incremental” basis will fail to comport with the requirements of the 1996 Act that universal service funding be adequate. A business venture cannot survive if all or nearly all of its revenues are sufficient only to meet hypothetical “incremental” costs.

9. The Petition also makes the erroneous assumption that universal service should be subordinate to the goal of competition. Nothing in the 1996 Act suggests that this is the case. Instead, the mechanisms of Section 254 are obviously intended to protect universal service in rural areas against the potential negative impacts of the

intended system of nationwide competition.

10. The Petition further errs in suggesting that the wireless service provided by the Petitioner and other carriers is the functional equivalent of the wireline local exchange services being provided by small rural local exchange carriers. In fact, however, wireless services in rural areas do not measure up to wireline service standards. They are typically an analog service, subject to spotty area coverage based on weather and terrain, and capable of modem access speeds often of 2400 baud or less. A state regulatory commission would not allow a small rural LEC to provide service with these limitations, but the wireless carriers are not subject to state service quality requirements. People in rural areas use wireless services primarily for mobile telephony, which is a useful function, but it is not the equivalent of wireline local exchange service.

11. This lack of wireless service equivalency strongly suggests that the current system of universal service support "portability" based on wireline costs is over-compensating wireless carriers, as has been brought to the Commission's attention in other proceedings. It further indicates that the assumption in the Petition that an as-yet-undeveloped system of estimating rural wireless service costs could ultimately be used as the benchmark of wireline universal service support cannot be justified from the standpoint of either sound public policy or the 1996 Act.

12. The introductory paragraph of the Petition suggest that the Commission should act to "release rural consumers from the monopoly grips" of rural LECs, which supposedly are depriving their rural customers of services comparable to those available

in rural areas. Nothing could be farther from the truth. The small rural LECs are providing their customers with high quality local exchange service, typically far better than the service provided by larger wireline carriers or by wireless carriers. They are carrying out the universal service mandate of the 1996 Act, but if they are to continue to maintain their "urban-comparable" service standards, the Commission must maintain the adequate universal service funding which is also required by the Act. The Petition of Western Wireless should be rejected.

Dated: January 16, 2004

Respectfully Submitted,



Jeffrey F. Beck, Vice-President
OREGON-IDAHO UTILITIES, INC.
HUMBOLDT TELEPHONE COMPANY
201 California St., 17th Floor
San Francisco, CA 94111
Telephone: 415/765-6208
E-mail: oiuv@sbcglobal.net

FCCWW1.pld